

1-1 By: Duncan S.B. No. 1691
1-2 (In the Senate - Filed March 11, 2005; March 30, 2005, read
1-3 first time and referred to Committee on State Affairs;
1-4 May 13, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; May 13, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1691 By: Duncan

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to certain retired school employees and the powers and
1-11 duties of the Teacher Retirement System of Texas; providing a
1-12 penalty.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (b), Section 12.057, Education Code,
1-15 is amended to read as follows:

1-16 (b) An employee of an independent school district who is
1-17 employed on a campus or program granted a charter under this
1-18 subchapter and [~~Section 12.052, 12.0521(a)(1), or 12.053~~] who
1-19 qualifies for membership in the Teacher Retirement System of Texas
1-20 shall be covered under the system in the same manner and to the same
1-21 extent as a qualified employee of the independent school district
1-22 who is employed on a regularly operating campus or in a regularly
1-23 operating program [~~is covered~~].

1-24 SECTION 2. Subsection (a), Section 12.1057, Education Code,
1-25 is amended to read as follows:

1-26 (a) An employee of an open-enrollment charter school
1-27 operating under a charter granted by the State Board of Education
1-28 who qualifies for membership in the Teacher Retirement System of
1-29 Texas shall be covered under the system to the same extent a
1-30 qualified employee of a school district is covered.

1-31 SECTION 3. Subchapter D, Chapter 12, Education Code, is
1-32 amended by adding Section 12.1164 to read as follows:

1-33 Sec. 12.1164. NOTICE TO TEACHER RETIREMENT SYSTEM OF TEXAS.

1-34 (a) The commissioner must notify the Teacher Retirement System of
1-35 Texas in writing of the revocation, denial of renewal, or surrender
1-36 of a charter under this subchapter not later than the 10th business
1-37 day after the date of the event.

1-38 (b) The commissioner must notify the Teacher Retirement
1-39 System of Texas in writing that an open-enrollment charter school
1-40 is no longer receiving state funding not later than the 10th
1-41 business day after the date on which the funding ceases.

1-42 (c) The commissioner must notify the Teacher Retirement
1-43 System of Texas in writing that an open-enrollment charter school
1-44 has resumed receiving state funds not later than the 10th business
1-45 day after the date on which funding resumes.

1-46 SECTION 4. Subsections (a), (b), (c), (i), and (j), Section
1-47 22.004, Education Code, are amended to read as follows:

1-48 (a) A district shall participate in the uniform group
1-49 coverage program established under Chapter 1579 [~~Article 3.50-7~~],
1-50 Insurance Code, as provided by Subchapter D [~~Section 5~~] of that
1-51 chapter [~~article~~].

1-52 (b) A district that does not participate in the program
1-53 described by Subsection (a) shall make available to its employees
1-54 group health coverage provided by a risk pool established by one or
1-55 more school districts under Chapter 172, Local Government Code, or
1-56 under a policy of insurance or group contract issued by an insurer,
1-57 a company subject to Chapter 842, Insurance Code, or a health
1-58 maintenance organization under Chapter 843, Insurance Code. The
1-59 coverage must meet the substantive coverage requirements of Chapter
1-60 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366
1-61 [~~Article 3.51-6~~], Insurance Code, and any other law applicable to
1-62 group health insurance policies or contracts issued in this state.
1-63 The coverage must include major medical treatment but may exclude

2-1 experimental procedures. In this subsection, "major medical
 2-2 treatment" means a medical, surgical, or diagnostic procedure for
 2-3 illness or injury. The coverage may include managed care or
 2-4 preventive care and must be comparable to the basic health coverage
 2-5 provided under Chapter 1551, Insurance Code. The board of trustees
 2-6 of the Teacher Retirement System of Texas shall adopt rules to
 2-7 determine whether a school district's group health coverage is
 2-8 comparable to the basic health coverage specified by this
 2-9 subsection. The rules must provide for consideration of the
 2-10 following factors concerning the district's coverage in
 2-11 determining whether the district's coverage is comparable to the
 2-12 basic health coverage specified by this subsection:

2-13 (1) the deductible amount for service provided inside
 2-14 and outside of the network;

2-15 (2) the coinsurance percentages for service provided
 2-16 inside and outside of the network;

2-17 (3) the maximum amount of coinsurance payments a
 2-18 covered person is required to pay;

2-19 (4) the amount of the copayment for an office visit;

2-20 (5) the schedule of benefits and the scope of
 2-21 coverage;

2-22 (6) the lifetime maximum benefit amount; and

2-23 (7) verification that the coverage is issued by a
 2-24 provider licensed to do business in this state by the Texas
 2-25 Department of Insurance or is provided by a risk pool authorized
 2-26 under Chapter 172, Local Government Code, or that a district is
 2-27 capable of covering the assumed liabilities in the case of coverage
 2-28 provided through district self-insurance.

2-29 (c) The cost of the coverage provided under the program
 2-30 described by Subsection (a) shall be paid by the state, the
 2-31 district, and the employees in the manner provided by Subchapter F,
 2-32 Chapter 1579 [~~Article 3.50-7~~], Insurance Code. The cost of
 2-33 coverage provided under a plan adopted under Subsection (b) shall
 2-34 be shared by the employees and the district using the contributions
 2-35 by the state described by Subchapter F, Chapter 1579 [~~Section 9,~~
 2-36 ~~Article 3.50-7~~], Insurance Code, or Subchapter D [~~by Article~~
 2-37 ~~3.50-8, Insurance Code~~].

2-38 (i) Notwithstanding any other provision of this section, a
 2-39 district participating in the uniform group coverage program
 2-40 established under Chapter 1579 [~~Article 3.50-7~~], Insurance Code,
 2-41 may not make group health coverage available to its employees under
 2-42 this section after the date on which the program of coverages
 2-43 provided under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, is
 2-44 implemented.

2-45 (j) This section does not preclude a district that is
 2-46 participating in the uniform group coverage program established
 2-47 under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, from entering
 2-48 into contracts to provide optional insurance coverages for the
 2-49 employees of the district.

2-50 SECTION 5. Subchapter A, Chapter 22, Education Code, is
 2-51 amended by adding Section 22.007 to read as follows:

2-52 Sec. 22.007. INCENTIVES FOR EARLY RETIREMENT. A district
 2-53 may not offer or provide a financial or other incentive to an
 2-54 employee of the district to encourage the employee to retire from
 2-55 the Teacher Retirement System of Texas.

2-56 SECTION 6. Chapter 22, Education Code, is amended by adding
 2-57 Subchapter D to read as follows:

2-58 SUBCHAPTER D. COMPENSATION SUPPLEMENTATION

2-59 Sec. 22.101. DEFINITIONS. In this subchapter:

2-60 (1) "Cafeteria plan" means a plan as defined and
 2-61 authorized by Section 125, Internal Revenue Code of 1986.

2-62 (2) "Employee" means an active, contributing member of
 2-63 the Teacher Retirement System of Texas who:

2-64 (A) is employed by a district, other educational
 2-65 district whose employees are members of the Teacher Retirement
 2-66 System of Texas, participating charter school, or regional
 2-67 education service center;

2-68 (B) is not a retiree eligible for coverage under
 2-69 the program established under Chapter 1575, Insurance Code;

3-1 (C) is not eligible for coverage by a group
3-2 insurance program under Chapter 1551 or 1601, Insurance Code; and

3-3 (D) is not an individual performing personal
3-4 services for a district, other educational district that is a
3-5 member of the Teacher Retirement System of Texas, participating
3-6 charter school, or regional education service center as an
3-7 independent contractor.

3-8 (3) "Participating charter school" means an
3-9 open-enrollment charter school established under Subchapter D,
3-10 Chapter 12, that participates in the program established under
3-11 Chapter 1579, Insurance Code.

3-12 (4) "Regional education service center" means a
3-13 regional education service center established under Chapter 8.

3-14 Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

3-15 (a) The agency may adopt rules to implement this subchapter.

3-16 (b) The agency may enter into interagency contracts with any
3-17 other agency of this state for the purpose of assistance in
3-18 implementing this subchapter.

3-19 Sec. 22.103. DISTRIBUTION BY AGENCY. Subject to the
3-20 availability of funds, each month the agency shall deliver to each
3-21 district, including a district that is ineligible for state aid
3-22 under Chapter 42, each other educational district that is a member
3-23 of the Teacher Retirement System of Texas, each participating
3-24 charter school, and each regional education service center state
3-25 funds in an amount, as determined by the agency, equal to the
3-26 product of the number of employees employed by the district,
3-27 school, or service center multiplied by the amount specified in the
3-28 General Appropriations Act for purposes of this subchapter and
3-29 divided by 12. The agency shall distribute funding to only one
3-30 entity for employees who are employed by more than one entity listed
3-31 in this section.

3-32 Sec. 22.104. FUNDS HELD IN TRUST. All funds received by a
3-33 district, other educational district, participating charter
3-34 school, or regional education service center under this subchapter
3-35 are held in trust for the benefit of the employees on whose behalf
3-36 the district, school, or service center received the funds.

3-37 Sec. 22.105. RECOVERY OF DISTRIBUTIONS. The agency is
3-38 entitled to recover from a district, other educational district,
3-39 participating charter school, or regional education service center
3-40 any amount distributed under this subchapter to which the district,
3-41 school, or service center was not entitled.

3-42 Sec. 22.106. DETERMINATION BY AGENCY FINAL. A
3-43 determination by the agency under this subchapter is final and may
3-44 not be appealed.

3-45 Sec. 22.107. DISTRIBUTION BY SCHOOL. Each month, each
3-46 district, other educational district that is a member of the
3-47 Teacher Retirement System of Texas, participating charter school,
3-48 and regional education service center must distribute to its
3-49 employees the funding received under this subchapter. To receive
3-50 the monthly distribution, an individual must meet the definition of
3-51 an employee under Section 22.101 for that month.

3-52 Sec. 22.108. USE OF SUPPLEMENTAL COMPENSATION. An employee
3-53 may use a monthly distribution received under this subchapter for
3-54 any employee benefit, including depositing the amount of the
3-55 distribution into a cafeteria plan, if the employee is enrolled in a
3-56 cafeteria plan, or using the amount of the distribution for health
3-57 care premiums through a premium conversion plan. The employee may
3-58 take the amount of the distribution as supplemental compensation.

3-59 Sec. 22.109. SUPPLEMENTAL COMPENSATION. An amount
3-60 distributed to an employee under this subchapter must be in
3-61 addition to the rate of compensation that:

3-62 (1) the district, other educational district,
3-63 participating charter school, or regional education service center
3-64 paid the employee in the preceding school year; or

3-65 (2) the district, school, or service center would have
3-66 paid the employee in the preceding school year if the employee had
3-67 been employed by the district, school, or service center in the same
3-68 capacity in the preceding school year.

3-69 SECTION 7. Section 821.003, Government Code, is amended to

4-1 read as follows:

4-2 Sec. 821.003. RETIREMENT SYSTEM. The retirement system is
 4-3 a public entity ~~[an agency of the state]~~. Except as provided by
 4-4 Section 825.304, the Teacher Retirement System of Texas is the name
 4-5 by which all business of the retirement system shall be transacted,
 4-6 all its funds invested, and all its cash, securities, and other
 4-7 property held.

4-8 SECTION 8. Subsection (c), Section 822.201, Government
 4-9 Code, is amended to read as follows:

- 4-10 (c) Excluded from salary and wages are:
- 4-11 (1) expense payments;
 - 4-12 (2) allowances;
 - 4-13 (3) payments for unused vacation or sick leave;
 - 4-14 (4) maintenance or other nonmonetary compensation;
 - 4-15 (5) fringe benefits;
 - 4-16 (6) deferred compensation other than as provided by
 4-17 Subsection (b)(3);
 - 4-18 (7) compensation that is not made pursuant to a valid
 4-19 employment agreement;
 - 4-20 (8) payments received by an employee in a school year
 4-21 that exceed \$5,000 for teaching a driver education and traffic
 4-22 safety course that is conducted outside regular classroom hours;
 - 4-23 (9) the benefit replacement pay a person earns as a
 4-24 result of a payment made under Subchapter B or C, Chapter 661;
 - 4-25 (10) any amount ~~[contributions to a health~~
 4-26 ~~reimbursement arrangement account]~~ received by an employee under
 4-27 Subchapter D, Chapter 22, Education Code, former Article 3.50-8,
 4-28 Insurance Code, former Chapter 1580, Insurance Code, or Rider 9,
 4-29 page III-39, Chapter 1330, Acts of the 78th Legislature, Regular
 4-30 Session, 2003 (the General Appropriations Act); and
 - 4-31 (11) any compensation not described by Subsection (b).

4-32 SECTION 9. Section 823.006, Government Code, is amended to
 4-33 read as follows:

4-34 Sec. 823.006. LIMITS ON ANNUAL CONTRIBUTIONS FOR PURCHASE
 4-35 OF ~~[PERMISSIVE]~~ SERVICE CREDIT ~~[RESTRICTIONS]~~. Notwithstanding
 4-36 any other provision of this subtitle, the retirement system may
 4-37 limit the purchase of service credit to the extent required by
 4-38 applicable limits on the amount of annual contributions a
 4-39 participant may make to a qualified plan under Sections 401(a) and
 4-40 415(c), Internal Revenue Code of 1986. [(a) In this section:

4-41 ~~[(1) "Nonqualified service" means service for which~~
 4-42 ~~permissive service credit is authorized by this subtitle, other~~
 4-43 ~~than:~~

4-44 ~~[(A) military service; and~~
 4-45 ~~[(B) service for any agency or instrumentality of~~
 4-46 ~~this state, including a political subdivision of this state, or for~~
 4-47 ~~any public school supported by the United States or a state or~~
 4-48 ~~territory of the United States, if credit for the service would not~~
 4-49 ~~cause a person to receive a retirement benefit for the same service~~
 4-50 ~~from more than one retirement system or program.~~

4-51 ~~[(2) "Permissive service credit" means service~~
 4-52 ~~credit:~~

4-53 ~~[(A) that is not membership credit authorized to~~
 4-54 ~~be reinstated;~~

4-55 ~~[(B) that is recognized under this subtitle for~~
 4-56 ~~purposes of computing a member's benefit under the retirement~~
 4-57 ~~system;~~

4-58 ~~[(C) for which the member has not received credit~~
 4-59 ~~with the retirement system; and~~

4-60 ~~[(D) that a member may receive only by making a~~
 4-61 ~~voluntary additional contribution in an amount determined as~~
 4-62 ~~provided by this subtitle that does not exceed the amount necessary~~
 4-63 ~~to fund the benefit attributable to the service credit.~~

4-64 ~~[(b) The purchase of permissive service credit by a person~~
 4-65 ~~who first becomes a member of the retirement system after August 31,~~
 4-66 ~~2000, is subject to the restrictions and conditions of Subsection~~
 4-67 ~~(d) in addition to all other requirements of this subtitle~~
 4-68 ~~applicable to the purchase.~~

4-69 ~~[(c) The purchase by any person of permissive service credit~~

5-1 ~~that was first made available under the retirement system after~~
 5-2 ~~December 31, 1997, is subject to the restrictions and conditions of~~
 5-3 ~~Subsection (d) in addition to all other requirements of this~~
 5-4 ~~subtitle applicable to the purchase.~~

5-5 ~~[(d) Under a circumstance described by Subsection (b) or~~
 5-6 ~~(c), a member may not purchase more than five years of permissive~~
 5-7 ~~service credit for nonqualified service, and a member may not~~
 5-8 ~~purchase service credit for nonqualified service before the member~~
 5-9 ~~has at least five years of membership service credit.]~~

5-10 SECTION 10. Subsections (d) and (e), Section 823.401,
 5-11 Government Code, are amended to read as follows:

5-12 (d) A member may establish credit under this section by
 5-13 depositing with the retirement system for each year of service
 5-14 credit the actuarial present value, at the time of deposit, of the
 5-15 additional standard retirement annuity benefits that would be
 5-16 attributable to the purchase of the service credit under this
 5-17 section, based on rates and tables recommended by the retirement
 5-18 system's actuary and adopted by the board of trustees ~~[claimed a~~
 5-19 ~~contribution computed at the rate of:~~

5-20 ~~[(1) 12 percent of the full-time rate of the member's~~
 5-21 ~~annual compensation, plus any additional eligible compensation~~
 5-22 ~~received, during the first year of service for which the member~~
 5-23 ~~received membership credit in the retirement system that is both~~
 5-24 ~~after the service for which credit is sought and after September 1,~~
 5-25 ~~1956; or~~

5-26 ~~[(2) 12 percent of the full-time rate of the member's~~
 5-27 ~~annual compensation, plus any additional eligible compensation~~
 5-28 ~~received, during the most recent year of service for which the~~
 5-29 ~~member received membership credit that is after the service for~~
 5-30 ~~which credit is sought, if the member has performed no service in~~
 5-31 ~~Texas since September 1, 1956].~~

5-32 (e) ~~[In addition to the contribution required by Subsection~~
 5-33 ~~(d), a member claiming credit under this section must pay a fee of~~
 5-34 ~~eight percent, compounded annually, of the required contribution~~
 5-35 ~~from the date of first eligibility to the date of deposit.]~~ A
 5-36 deposit for at least one year of credit ~~[, including the fee,]~~ must
 5-37 be made with an initial application for credit, and all payments for
 5-38 service claimed under this section must be made before retirement.

5-39 SECTION 11. Section 824.202, Government Code, is amended by
 5-40 amending Subsections (a), (b), and (d) and adding Subsections
 5-41 (a-1), (b-1), and (d-1) to read as follows:

5-42 (a) Except as provided by Subsection (a-1), a [A] member is
 5-43 eligible to retire and receive a standard service retirement
 5-44 annuity if:

5-45 (1) the member is at least 65 years old and has at
 5-46 least five years of service credit in the retirement system;

5-47 (2) the member is at least 60 years old and has at
 5-48 least 20 years of service credit in the retirement system;

5-49 (3) the member is at least 50 years old and has at
 5-50 least 30 years of service credit in the retirement system; or

5-51 (4) the sum of the member's age and amount of service
 5-52 credit in the retirement system equals the number 80.

5-53 (a-1) This subsection applies only to a person who becomes a
 5-54 member of the retirement system on or after September 1, 2006. A
 5-55 member subject to this subsection is eligible to retire and receive
 5-56 a standard service retirement annuity if:

5-57 (1) the member is at least 65 years old and has at
 5-58 least five years of service credit in the retirement system; or

5-59 (2) the member is at least 60 years old and has at
 5-60 least five years of service credit in the retirement system and the
 5-61 sum of the member's age and amount of service credit in the
 5-62 retirement system equals the number 80.

5-63 (b) This subsection applies only to a person who is not
 5-64 subject to Subsection (b-1) or (d). If a member subject to this
 5-65 subsection is at least 55 years old and has at least five years of
 5-66 service credit in the retirement system, the member is eligible to
 5-67 retire and receive a service retirement annuity reduced from the
 5-68 standard service retirement annuity available under Subsection
 5-69 (a)(1), to a percentage derived from the following table:

7-1 SECTION 13. Subsections (a) through (d), Section 824.2045,
7-2 Government Code, are amended to read as follows:

7-3 (a) A member ~~[who is eligible for an unreduced service~~
7-4 ~~retirement annuity and is not participating in the deferred~~
7-5 ~~retirement option plan under Subchapter I]~~ may select a standard
7-6 service retirement annuity or an optional service retirement
7-7 annuity described by Section 824.204, reduced for early age as
7-8 applicable under Section 824.202, together with a partial lump-sum
7-9 distribution, if:

7-10 (1) the member is eligible for a service retirement
7-11 annuity;

7-12 (2) the sum of the member's age and amount of service
7-13 credit in the retirement system equals the number 90; and

7-14 (3) the member is not participating in the deferred
7-15 retirement option plan under Subchapter I.

7-16 (b) The amount of the lump-sum distribution under this
7-17 section may not exceed the sum of 36 months of a standard service
7-18 retirement annuity reduced for early age as applicable under
7-19 Section 824.202 computed without regard to this section.

7-20 (c) The service retirement annuity selected by the member
7-21 shall be actuarially reduced to reflect the lump-sum option
7-22 selected by the member and shall be actuarially equivalent to a
7-23 standard or optional service retirement annuity, as applicable,
7-24 reduced for early age as applicable under Section 824.202, without
7-25 the partial lump-sum distribution. The annuity and lump sum shall
7-26 be computed to result in no actuarial loss to the retirement system.

7-27 (d) The retiring member may choose a lump sum equal to 12
7-28 months of a standard service retirement annuity and payable at the
7-29 same time that the first monthly payment of the annuity is paid, a
7-30 lump sum equal to 24 months of a standard annuity and payable in one
7-31 or two annual payments, or a lump sum equal to 36 months of a
7-32 standard annuity and payable in one, two, or three annual payments.
7-33 At the option of the member, a payment under this subsection may be
7-34 made as provided by Section 825.509. The amount of the lump sum
7-35 shall be computed based on a standard service retirement annuity
7-36 reduced for early age as applicable under Section 824.202.

7-37 SECTION 14. Section 824.405, Government Code, is amended to
7-38 read as follows:

7-39 Sec. 824.405. TABLES FOR DETERMINATION OF DEATH BENEFIT
7-40 ANNUITY. For the purpose of computing a death benefit annuity under
7-41 Subdivision (4), Subsection (a), Section 824.402 or Section
7-42 824.403, the board of trustees shall extend the tables:

7-43 (1) in Section 824.202(b) or (b-1), as applicable, to
7-44 ages earlier than 55 years by actuarially reducing the benefit
7-45 available at the age of 55 years to the actuarial equivalent at the
7-46 attained age of the beneficiary; and

7-47 (2) in Section 824.202(b) or (d-1), as applicable,
7-48 [824.202(c)] to ages earlier than the earliest retirement age by
7-49 actuarially reducing the benefit available at the earliest
7-50 retirement age to the actuarial equivalent at the attained age of
7-51 the beneficiary.

7-52 SECTION 15. Subsection (d), Section 824.503, Government
7-53 Code, is amended to read as follows:

7-54 (d) A benefit under Subsection (c) is payable to the person
7-55 or persons designated as the beneficiary of the beneficiary and, if
7-56 such person has not been designated or does not survive, then to the
7-57 persons entitled to distribution of the deceased beneficiary's
7-58 estate.

7-59 SECTION 16. Subsection (a), Section 824.602, Government
7-60 Code, is amended to read as follows:

7-61 (a) Subject to Section 825.506, the retirement system may
7-62 not, under Section 824.601, withhold a monthly benefit payment if
7-63 the retiree is employed in a Texas public educational institution:

7-64 (1) as a substitute only with pay not more than the
7-65 daily rate of substitute pay established by the employer and, if the
7-66 retiree is a disability retiree, the employment has not exceeded a
7-67 total of 90 days in the school year;

7-68 (2) in a position, other than as a substitute, on no
7-69 more than a one-half time basis for the month;

8-1 (3) in one or more positions on as much as a full-time
8-2 basis, if the work occurs in not more than six months of a school
8-3 year that begins after the retiree's effective date of retirement;

8-4 (4) in a position, other than as a substitute, on no
8-5 more than a one-half time basis for no more than 90 days in the
8-6 school year, if the retiree is a disability retiree;

8-7 (5) in a position as a classroom teacher on as much as
8-8 a full-time basis, if the retiree has retired under Section
8-9 824.202(a) or (a-1), is certified under Subchapter B, Chapter 21,
8-10 Education Code, to teach the subjects assigned, is teaching in an
8-11 acute shortage area as determined by the board of trustees of a
8-12 school district as provided by Subsection (m), and has been
8-13 separated from service with all public schools for at least 12
8-14 months;

8-15 (6) in a position as a principal, including as an
8-16 assistant principal, on as much as a full-time basis, if the retiree
8-17 has retired under Section 824.202(a) or (a-1) without reduction for
8-18 retirement at an early age, is certified under Subchapter B,
8-19 Chapter 21, Education Code, to serve as a principal, and has been
8-20 separated from service with all public schools for at least 12
8-21 months; or

8-22 (7) as a bus driver for a school district on as much as
8-23 a full-time basis, if the retiree has retired under Section
8-24 824.202(a) or (a-1), and the retiree's primary employment is as a
8-25 bus driver.

8-26 SECTION 17. Subchapter G, Chapter 824, Government Code, is
8-27 amended by adding Section 824.6022 to read as follows:

8-28 Sec. 824.6022. REQUIRED REPORTS; OFFENSE. (a) An employer
8-29 shall file a monthly certified statement of employment of a retiree
8-30 in the form and manner required by the retirement system.

8-31 (b) A person commits an offense if the person is an
8-32 administrator of an employer, is responsible for filing a statement
8-33 under Subsection (a), and knowingly fails to file the statement as
8-34 required.

8-35 SECTION 18. Subchapter I, Chapter 824, Government Code, is
8-36 amended by adding Section 824.8011 to read as follows:

8-37 Sec. 824.8011. DEADLINE TO ELECT TO PARTICIPATE. A person
8-38 must make an election to participate in the plan not later than
8-39 December 31, 2005.

8-40 SECTION 19. Subsection (b), Section 824.805, Government
8-41 Code, is amended to read as follows:

8-42 (b) This subsection applies only to a [A] member
8-43 participating in the plan on September 1, 2005, or to a member whose
8-44 period of participation in the plan expired on or before September
8-45 1, 2005, but who has not retired on or before that date. A member
8-46 described by this subsection [2001,] may, before December 31, 2005,
8-47 revoke the member's decision to participate [2001, elect to
8-48 discontinue participation] in the plan on a form prescribed by and
8-49 filed with the retirement system. The retirement system shall make
8-50 account transfers and change records for a member who revokes the
8-51 member's decision to participate [elects under this subsection to
8-52 discontinue participation] in the plan as if the member had never
8-53 participated in the plan.

8-54 SECTION 20. Section 825.101, Government Code, is amended to
8-55 read as follows:

8-56 Sec. 825.101. GENERAL ADMINISTRATION. The board of
8-57 trustees is responsible for the general administration and
8-58 operation of the retirement system. Notwithstanding any other law,
8-59 the board of trustees has exclusive control over all assets held in
8-60 trust by the retirement system and all operations funded by trust
8-61 assets and shall administer the retirement system for the sole and
8-62 exclusive benefit of the members and participants.

8-63 SECTION 21. Section 825.103, Government Code, is amended by
8-64 adding Subsections (c) through (g) to read as follows:

8-65 (c) Chapter 412, Labor Code, does not apply to the
8-66 retirement system. The board of trustees may acquire services
8-67 described by that chapter in any manner or amount the board
8-68 considers reasonable. The State Office of Risk Management shall
8-69 provide services for the retirement system as requested by the

9-1 retirement system, and the retirement system may use the services
 9-2 of the State Office of Risk Management to obtain insurance and
 9-3 perform risk management and workers' compensation claim services.
 9-4 The State Office of Risk Management shall pay to the retirement
 9-5 system any amounts collected on behalf of the system through
 9-6 subrogation of claims, regardless of the budget biennium in which
 9-7 the office receives the amounts. The State Office of Risk
 9-8 Management shall pay these amounts directly to the retirement
 9-9 system instead of to the general revenue fund.

9-10 (d) Notwithstanding any other law, the retirement system
 9-11 has exclusive authority over the purchase of goods and services
 9-12 using money other than money appropriated from the general revenue
 9-13 fund, including specifically money from trusts under the
 9-14 administration of the retirement system, and Subtitle D, Title 10,
 9-15 does not apply to the retirement system with respect to that money.
 9-16 The retirement system shall acquire goods or services by
 9-17 procurement methods approved by the board of trustees or the
 9-18 board's designee. For purposes of this subsection, goods and
 9-19 services include all professional and consulting services and
 9-20 utilities as well as supplies, materials, equipment, skilled or
 9-21 unskilled labor, and insurance. The Texas Building and Procurement
 9-22 Commission shall procure goods or services for the retirement
 9-23 system at the request of the retirement system, and the retirement
 9-24 system may use the services of that commission in procuring goods or
 9-25 services.

9-26 (e) Chapters 2054 and 2055 do not apply to the retirement
 9-27 system. The board of trustees shall control all aspects of
 9-28 information technology and associated resources relating to the
 9-29 retirement system, including computer, data management, and
 9-30 telecommunication operations, procurement of hardware, software,
 9-31 and middleware, and telecommunication equipment and systems,
 9-32 location, operation, and replacement of computers, computer
 9-33 systems, and telecommunication systems, data processing, security,
 9-34 disaster recovery, and storage. The Department of Information
 9-35 Resources shall assist the retirement system at the request of the
 9-36 retirement system, and the retirement system may use any service
 9-37 that is available through that department.

9-38 (f) Subchapter C, Chapter 2260, does not apply to the
 9-39 retirement system. The acceptance of benefits by the retirement
 9-40 system under a contract does not waive immunity from suit or
 9-41 immunity from liability.

9-42 (g) Notwithstanding any other law, Chapters 2261 and 2262 do
 9-43 not apply to the retirement system. The Contract Advisory Team
 9-44 shall assist the retirement system at the request of the retirement
 9-45 system. The retirement system may use the training program for
 9-46 contract management provided under Chapter 2262.

9-47 SECTION 22. Section 825.112, Government Code, is amended to
 9-48 read as follows:

9-49 Sec. 825.112. ~~[FIDUCIARY]~~ INSURANCE. Notwithstanding any
 9-50 other law, the ~~[The]~~ board of trustees may self-insure or purchase
 9-51 any ~~[liability]~~ insurance, including fiduciary and liability ~~[for~~
 9-52 ~~the]~~ coverage for trust assets or for ~~[of]~~ the trustees, employees,
 9-53 and agents of the board of trustees, ~~[from an insurer licensed to do~~
 9-54 ~~business in this state]~~ in ~~[the]~~ amounts the board of trustees
 9-55 considers reasonable and prudent ~~[necessary. A policy of insurance~~
 9-56 ~~purchased under this section may not provide reimbursement for~~
 9-57 ~~liability imposed or expenses incurred because of a trustee's,~~
 9-58 ~~employee's, or agent's intentional fraud or intentional failure to~~
 9-59 ~~act prudently].~~

9-60 SECTION 23. Section 825.115, Government Code, is amended to
 9-61 read as follows:

9-62 Sec. 825.115. APPLICABILITY OF CERTAIN LAWS. (a) Except
 9-63 as provided by this section, the ~~[The]~~ board of trustees is subject
 9-64 to the open meetings law, Chapter 551, and the administrative
 9-65 procedure law, Chapter 2001.

9-66 (b) The board of trustees may in its sole discretion make a
 9-67 final decision on a contested case. Notwithstanding any other law,
 9-68 the board of trustees may in its sole discretion modify, refuse to
 9-69 accept, or delete any proposed finding of fact or conclusion of law

10-1 contained in a proposal for decision submitted by an administrative
 10-2 law judge or other hearing examiner, or make alternative findings
 10-3 of fact and conclusions of law, in a proceeding considered to be a
 10-4 contested case under Chapter 2001. The board of trustees shall
 10-5 state in writing the specific reason for its determination and may
 10-6 adopt rules for the implementation of this subsection. The board of
 10-7 trustees may delegate its authority under this subsection to the
 10-8 executive director, and the executive director may delegate the
 10-9 authority to another employee of the retirement system.

10-10 (c) The executive director or the executive director's
 10-11 designee under Subsection (b) may refer an appeal relating to the
 10-12 pension plan to the State Office of Administrative Hearings for a
 10-13 hearing or may employ, select, or contract for the services of an
 10-14 administrative law judge or hearing examiner not affiliated with
 10-15 the State Office of Administrative Hearings to conduct a hearing.
 10-16 This subsection prevails over any other law to the extent of any
 10-17 conflict.

10-18 SECTION 24. Section 825.208, Government Code, is amended to
 10-19 read as follows:

10-20 Sec. 825.208. COMPENSATION OF EMPLOYEES; PAYMENT OF
 10-21 EXPENSES. (a) Notwithstanding any other law, the [The] board of
 10-22 trustees shall approve the rate of compensation of all persons it
 10-23 employs and the amounts necessary for other expenses for operation
 10-24 of the retirement system. If expenditures are paid from money
 10-25 appropriated from the general revenue fund rather than from trust
 10-26 funds, the [The] rates and amounts may not exceed those paid for
 10-27 similar services for the state.

10-28 (b) The retirement system is exempt from Chapter 660 and
 10-29 Subchapter K, Chapter 659, to the extent the board of trustees
 10-30 determines an exemption is necessary for the performance of
 10-31 fiduciary duties.

10-32 (c) The board of trustees may compensate employees of the
 10-33 retirement system, whether subject to or exempt from the overtime
 10-34 provisions of the Fair Labor Standards Act of 1938 (29 U.S.C.
 10-35 Section 201 et seq.), at the rate equal to the employees' regular
 10-36 rate of pay for work performed on a legal holiday or for other
 10-37 compensatory time accrued, when taking compensatory time off would
 10-38 be disruptive to the system's normal business functions.

10-39 SECTION 25. Subsection (a), Section 825.307, Government
 10-40 Code, is amended to read as follows:

10-41 (a) The retirement system shall deposit in a member's
 10-42 individual account in the member savings account:

10-43 (1) the amount of contributions to the retirement
 10-44 system that is deducted from the member's compensation;

10-45 (2) the portion of a deposit made on or after
 10-46 resumption of membership that represents the amount of retirement
 10-47 benefits received;

10-48 (3) the portion of a deposit to reinstate service
 10-49 credit previously canceled that represents the amount withdrawn or
 10-50 refunded;

10-51 (4) the portion of a deposit to establish military
 10-52 service credit required by Section 823.302(c);

10-53 (5) the portion of a deposit to establish equivalent
 10-54 membership service credit required by Section 823.401(d),
 10-55 823.402(e)(1) or (e)(2), or 823.404(c) [~~823.405, or~~
 10-56 ~~823.3021(f)(1)~~]; and

10-57 (6) interest earned on money in the account as
 10-58 provided by Subsections (b) and (c) and Section 825.313(c).

10-59 SECTION 26. Section 825.308, Government Code, is amended to
 10-60 read as follows:

10-61 Sec. 825.308. STATE CONTRIBUTION ACCOUNT. The retirement
 10-62 system shall deposit in the state contribution account:

10-63 (1) all state contributions to the retirement system
 10-64 required by Section 825.404;

10-65 (2) amounts from the interest account as provided by
 10-66 Section 825.313(b)(2);

10-67 (3) retirement annuities waived or forfeited in
 10-68 accordance with Section 824.601 or 824.004;

10-69 (4) fees collected under Section 825.403(h);

11-1 (5) fees and interest for reinstatement of service
 11-2 credit or establishment of membership service credit as provided by
 11-3 Section 823.501;

11-4 (6) the portion of a deposit required by Section
 11-5 823.302 to establish military service credit that represents a fee;
 11-6 and

11-7 (7) employer contributions required under Section
 11-8 825.4092 [the portion of a deposit required by Section 823.401(e)
 11-9 to establish out-of-state service credit that represents a fee].

11-10 SECTION 27. Section 825.403, Government Code, is amended by
 11-11 adding Subsections (k) and (l) to read as follows:

11-12 (k) Reporting entities and the commissioner of education
 11-13 shall inform the retirement system of changes in status of a school
 11-14 district or charter school that affect the reporting
 11-15 responsibilities of the entity.

11-16 (l) The commissioner of education shall notify the
 11-17 retirement system in writing:

11-18 (1) of the revocation, denial of renewal, or surrender
 11-19 of a charter issued by the State Board of Education, within 10
 11-20 business days of the date of the event;

11-21 (2) that an open-enrollment charter school or other
 11-22 reporting entity no longer is receiving state funds, within 10
 11-23 business days of the date on which funding ceases; and

11-24 (3) when an open-enrollment charter school or other
 11-25 reporting entity resumes receiving state funds, within 10 business
 11-26 days of the date on which funding resumes.

11-27 SECTION 28. Subchapter E, Chapter 825, Government Code, is
 11-28 amended by adding Section 825.4041 to read as follows:

11-29 Sec. 825.4041. EMPLOYER PAYMENTS. (a) For purposes of
 11-30 this section, a new member is a person first employed on or after
 11-31 September 1, 2005, including a former member who withdrew
 11-32 retirement contributions under Section 822.003 and is reemployed on
 11-33 or after September 1, 2005.

11-34 (b) During each fiscal year, an employer shall pay an amount
 11-35 equal to the state contribution rate, as established by the General
 11-36 Appropriations Act for the fiscal year, applied to the aggregate
 11-37 compensation of new members of the retirement system, as described
 11-38 by Subsection (a), during their first 90 days of employment.

11-39 (c) On a monthly basis an employer shall:

11-40 (1) report to the retirement system, in a form
 11-41 prescribed by the system, a certification of the total amount of
 11-42 salary paid during the first 90 days of employment of a new member
 11-43 and the total amount of employer payments due under this section for
 11-44 the payroll periods; and

11-45 (2) retain information, as determined by the
 11-46 retirement system, sufficient to allow administration of this
 11-47 section, including information for each employee showing the
 11-48 applicable salary as well as aggregate compensation for the first
 11-49 90 days of employment for new employees.

11-50 (d) A person who was hired before September 1, 2005, and was
 11-51 subject to a 90-day waiting period for membership in the retirement
 11-52 system becomes eligible to participate in the retirement system as
 11-53 a member starting September 1, 2005. For the purpose of this
 11-54 section, the member shall be treated as a new member for the
 11-55 remainder of the waiting period.

11-56 (e) The employer must remit the amount required under this
 11-57 section to the retirement system at the same time the employer
 11-58 remits the member's contribution. In computing the amount required
 11-59 to be remitted, the employer shall include compensation paid to an
 11-60 employee for the entire pay period that contains the 90th calendar
 11-61 day of new employment.

11-62 (f) At the end of each school year, the retirement system
 11-63 shall certify to the commissioner of education and to the state
 11-64 auditor:

11-65 (1) the name of each employer that has failed to remit,
 11-66 within the period required by Section 825.408, all payments
 11-67 required under this section for the school year; and

11-68 (2) the amounts of the unpaid required payments.

11-69 (g) If the commissioner of education or the state auditor

12-1 receives a certification under Subsection (f), the commissioner or
 12-2 the state auditor shall direct the comptroller to withhold the
 12-3 amount certified, plus interest computed at the rate and in the
 12-4 manner provided by Section 825.408, from the first state money
 12-5 payable to the employer. The amount withheld shall be deposited to
 12-6 the credit of the appropriate accounts of the retirement system.

12-7 (h) The board of trustees shall take this section into
 12-8 consideration in adopting the biennial estimate of the amount
 12-9 necessary to pay the state's contributions to the retirement
 12-10 system.

12-11 SECTION 29. Subchapter E, Chapter 825, Government Code, is
 12-12 amended by adding Section 825.4092 to read as follows:

12-13 Sec. 825.4092. EMPLOYER CONTRIBUTIONS FOR EMPLOYED
 12-14 RETIREES. (a) This section applies to an employer who reports to
 12-15 the retirement system the employment of a retiree.

12-16 (b) Except as provided by Subsection (e), during each
 12-17 payroll period for which a retiree is reported, the employer shall
 12-18 contribute to the retirement system for each retiree reported an
 12-19 amount based on the retiree's salary equal to the sum of:

12-20 (1) the current contribution amount that would be
 12-21 contributed by the retiree if the retiree were an active,
 12-22 contributing member; and

12-23 (2) the current contribution amount authorized by the
 12-24 General Appropriations Act that the state would contribute for that
 12-25 retiree if the retiree were an active, contributing member.

12-26 (c) Except as provided by Subsection (e), each payroll
 12-27 period, for each retiree who is enrolled in the Texas Public School
 12-28 Employees Group Insurance Program under Chapter 1575, Insurance
 12-29 Code, the employer who reports the employment of a retiree shall
 12-30 contribute to the trust fund established under that chapter any
 12-31 difference between the amount the retiree is required to pay for the
 12-32 retiree and any enrolled dependents to participate in the group
 12-33 program and the full cost of the retiree's and enrolled dependents'
 12-34 participation in the group program, as determined by the retirement
 12-35 system. If more than one employer reports the retiree to the
 12-36 retirement system during a month, the amount of the required
 12-37 payment shall be prorated among the employers.

12-38 (d) Contributions under this section are subject to the
 12-39 requirements of Section 825.408.

12-40 (e) The amounts required to be paid under Subsections (b)
 12-41 and (c) are not required to be paid by a reporting employer for a
 12-42 retiree who was reported by that employer under retirement system
 12-43 rules in effect for the report month of January 2005.

12-44 SECTION 30. Section 2254.102, Government Code, is amended
 12-45 by adding Subsection (d) to read as follows:

12-46 (d) This subchapter does not apply to a contract for legal
 12-47 services entered into by the Teacher Retirement System of Texas if
 12-48 the services are paid for from money that is not appropriated from
 12-49 the general revenue fund, including funds of a trust administered
 12-50 by the retirement system.

12-51 SECTION 31. Subsections (a) and (h), Section 825.410,
 12-52 Government Code, are amended to read as follows:

12-53 (a) Payments to establish special service credit as
 12-54 authorized under this subtitle, other than service credit that may
 12-55 only be determined and paid for at the time of retirement such as
 12-56 unused leave as authorized by Section 823.403, [~~in Sections~~
 12-57 ~~805.002, 823.302, 823.304, 823.401, 823.501, and 825.403~~] may be
 12-58 made in a lump sum by a monthly payroll deduction in an amount not
 12-59 less than one-twelfth of the contribution required to establish at
 12-60 least one year of service credit, or in equal monthly installments
 12-61 over a period not to exceed the lesser of the number of years of
 12-62 credit to be purchased or 60 months. Installment and payroll
 12-63 deduction payments are due on the first day of each calendar month
 12-64 in the payment period. If an installment or payroll deduction
 12-65 payment is not made in full within 60 days after the due date, the
 12-66 retirement system may refund all installment or payroll deduction
 12-67 payments less fees paid on the lump sum due when installment or
 12-68 payroll deduction payments began. Partial payment of an
 12-69 installment or payroll deduction payment may be treated as

13-1 nonpayment. A check returned for insufficient funds or a closed
 13-2 account shall be treated as nonpayment. When two or more
 13-3 consecutive monthly payments have a returned check, a refund may be
 13-4 made. If the retirement system refunds payments pursuant to this
 13-5 subsection, the member is not permitted to use the installment
 13-6 method of payment or the payroll deduction method, as applicable,
 13-7 for the same service for three years after the date of the refund. A
 13-8 member who requests and receives a refund of installment or payroll
 13-9 deduction payments also is not permitted to use the same method of
 13-10 payment for the same service for three years after the date of the
 13-11 refund.

13-12 (h) The board of trustees has authority to adopt rules to
 13-13 implement this section, including rules establishing a minimum
 13-14 amount for monthly installment or payroll deduction payments and
 13-15 rules establishing payment under Section 823.004(b).

13-16 SECTION 32. Section 825.506, Government Code, is amended by
 13-17 adding Subsection (c) to read as follows:

13-18 (c) It is intended that the retirement system administer the
 13-19 plan in a manner that satisfies the required minimum distribution
 13-20 provisions of Section 401(a)(9), Internal Revenue Code of 1986.
 13-21 The board of trustees may adopt rules to administer the
 13-22 distribution requirements, including distribution when a
 13-23 participant dies before the entire interest is distributed.

13-24 SECTION 33. Subsections (a) and (b), Section 825.507,
 13-25 Government Code, are amended to read as follows:

13-26 (a) Records of a participant that are in the custody of the
 13-27 retirement system or of an administrator, carrier, attorney,
 13-28 consultant, or governmental agency acting in cooperation with or on
 13-29 behalf of the retirement system are confidential and not subject to
 13-30 public disclosure in a form that would identify an individual and
 13-31 are exempt from the public access provisions of Chapter 552, except
 13-32 as otherwise provided by this section. Because the records
 13-33 described by this subsection are exempt from the public access
 13-34 provisions of Chapter 552, the retirement system is not required to
 13-35 accept or comply with a request for a record or information about a
 13-36 record or to seek an opinion from the attorney general, except as
 13-37 otherwise provided by this section.

13-38 (b) The retirement system may release records of a
 13-39 participant, including a participant to which Chapter 803 applies,
 13-40 to:

13-41 (1) the participant or the participant's attorney or
 13-42 guardian or another person who the executive director determines is
 13-43 acting on behalf of the participant;

13-44 (2) the executor or administrator of the deceased
 13-45 participant's estate, including information relating to the
 13-46 deceased participant's beneficiary;

13-47 (3) a spouse or former spouse of the participant if the
 13-48 executive director determines that the information is relevant to
 13-49 the spouse's or former spouse's interest in member accounts,
 13-50 benefits, or other amounts payable by the retirement system;

13-51 (4) an administrator, carrier, consultant, attorney,
 13-52 or agent acting on behalf of the retirement system;

13-53 (5) a governmental entity, an employer, or the
 13-54 designated agent of an employer, only to the extent the retirement
 13-55 system needs to share the information to perform the purposes of the
 13-56 retirement system, as determined by the executive director;

13-57 (6) a person authorized by the participant in writing
 13-58 to receive the information;

13-59 (7) a federal, ~~or~~ state, or local criminal law
 13-60 enforcement agency that requests a record for a law enforcement
 13-61 purpose;

13-62 (8) the attorney general to the extent necessary to
 13-63 enforce child support; or

13-64 (9) a party in response to a subpoena issued under
 13-65 applicable law if the executive director determines that the
 13-66 participant will have a reasonable opportunity to contest the
 13-67 subpoena.

13-68 SECTION 34. The heading to Section 825.512, Government
 13-69 Code, is amended to read as follows:

14-1 Sec. 825.512. INVESTMENT PRACTICES AND PERFORMANCE REPORTS
 14-2 [AUDIT].

14-3 SECTION 35. Subsection (e), Section 825.512, Government
 14-4 Code, is amended to read as follows:

14-5 (e) The retirement system shall submit an annual investment
 14-6 performance report not later than the 45th day after the end of each
 14-7 fiscal year to the governor, the lieutenant governor, the speaker
 14-8 of the house of representatives, the executive director of the
 14-9 State Pension Review Board, the legislative audit committee, the
 14-10 committees of the senate and the house of representatives having
 14-11 jurisdiction over appropriations, the committees of the senate and
 14-12 the house of representatives having principal jurisdiction over
 14-13 legislation governing the retirement system, and the Legislative
 14-14 Budget Board. The report shall include a listing of all commissions
 14-15 and fees paid by the system during the reporting period for the
 14-16 sale, purchase, or management of system assets. ~~[The report shall~~
 14-17 ~~be in a form recommended by the evaluating firm.]~~

14-18 SECTION 36. Subchapter F, Chapter 825, Government Code, is
 14-19 amended by adding Sections 825.519 and 825.520 to read as follows:

14-20 Sec. 825.519. ELECTRONIC INFORMATION. The retirement
 14-21 system may provide confidential information electronically to
 14-22 members or other participants or employers and receive information
 14-23 electronically from those persons, including by use of an
 14-24 electronic signature or certification in a form acceptable to the
 14-25 retirement system. An unintentional disclosure to, or unauthorized
 14-26 access by, a third party related to the transmission or receipt of
 14-27 information under this section is not a violation by the retirement
 14-28 system of any law, including a rule relating to the protection of
 14-29 confidential information.

14-30 Sec. 825.520. IMMUNITY FROM LIABILITY. The trustees,
 14-31 executive director, and employees of the retirement system are not
 14-32 liable for any action taken or omission made or suffered by them in
 14-33 good faith in the performance of any duty in connection with any
 14-34 program or system administered by the retirement system.

14-35 SECTION 37. Section 1575.004, Insurance Code, is amended to
 14-36 read as follows:

14-37 Sec. 1575.004. DEFINITION OF RETIREE. (a) In this
 14-38 chapter, "retiree" means:

14-39 (1) an individual not eligible for coverage under a
 14-40 plan provided under Chapter 1551 or 1601 who:

14-41 (A) ~~[is at least 65 years of age and]~~ has taken a
 14-42 service retirement under the Teacher Retirement System of Texas
 14-43 after September 1, 2005, with at least 10 years of service credit in
 14-44 the system, which may include up to five years of military service
 14-45 credit, but which may not include any other service credit
 14-46 purchased for equivalent or special service credit, and either:

14-47 (i) the sum of the retiree's age and years
 14-48 of service credit in the retirement system equals or exceeds 80 at
 14-49 the time of retirement, regardless of whether the retiree had a
 14-50 reduction in the retirement annuity for early age; or

14-51 (ii) the retiree has 30 or more years of
 14-52 service credit in the retirement system at the time of retirement;

14-53 (B) has taken a service retirement under the
 14-54 Teacher Retirement System of Texas after September 1, 2004, but on
 14-55 or before August 31, 2005, and on September 1, 2005, either:

14-56 (i) ~~[was employed in actual service in~~
 14-57 ~~public schools in this state during or before the 2003-2004 school~~
 14-58 ~~year and at the time of retirement]~~ meets the requirements for
 14-59 eligibility for the group program for coverage as a retiree as those
 14-60 requirements existed on August 31, 2004;

14-61 (ii) meets the requirements of Paragraph
 14-62 (A); or

14-63 (iii) is enrolled in the group program and
 14-64 was enrolled in the group program on August 31, 2005; or

14-65 (C) ~~[purchased equivalent or special service~~
 14-66 ~~credit, and:~~

14-67 ~~[(i) had that service credited on or before~~
 14-68 ~~August 31, 2003,~~

14-69 ~~[(ii) retires on or before August 31, 2009,~~

15-1 ~~[(iii) at the time of retirement, meets the~~
15-2 ~~requirements for eligibility for the group program for coverage as~~
15-3 ~~a retiree as those requirements existed on August 31, 2004,~~
15-4 ~~including using up to five years of out-of-state service toward~~
15-5 ~~retiree eligibility; and~~

15-6 ~~[(iv) has taken a service retirement under~~
15-7 ~~the Teacher Retirement System of Texas without reduction for early~~
15-8 ~~age;~~

15-9 ~~[(D) has taken a service retirement under the~~
15-10 ~~Teacher Retirement System of Texas and who has at least 10 years of~~
15-11 ~~service credit in the system, which may include up to five years of~~
15-12 ~~military service credit but which may not include any other service~~
15-13 ~~credit purchased for equivalent or special service credit, and the~~
15-14 ~~sum of the individual's age and amount of service credit described~~
15-15 ~~by this paragraph equals or exceeds the number 80; or~~

15-16 ~~[(E)] has taken a service retirement under the~~
15-17 ~~Teacher Retirement System of Texas on or before August 31, 2004, and~~
15-18 ~~who is enrolled in the group program on August 31, 2005 [2004]; or~~

15-19 (2) an individual who:

15-20 (A) has taken a disability retirement under the
15-21 Teacher Retirement System of Texas; and

15-22 (B) is entitled to receive monthly benefits from
15-23 the Teacher Retirement System of Texas.

15-24 (b) ~~[Each year of service credit in the system that an~~
15-25 ~~individual would have received but for the individual's~~
15-26 ~~participation in the deferred retirement option plan under~~
15-27 ~~Subchapter I, Chapter 824, Government Code, is considered a year of~~
15-28 ~~service credit solely for the purpose of meeting the definition of~~
15-29 ~~"retiree" under Subsection (a)(1)(A) or (D).~~

15-30 ~~[(c)] In this section, "public school" has the meaning~~
15-31 ~~assigned by Section 821.001, Government Code.~~

15-32 (c) For purposes of this section, to meet the requirements
15-33 for eligibility that existed on August 31, 2004, for a service
15-34 retiree, an individual must not have been eligible to be covered by
15-35 a plan provided under Chapter 1551 or 1601 and must have taken a
15-36 service retirement under the Teacher Retirement System of Texas
15-37 with either:

15-38 (1) at least 10 years of service credit in the
15-39 retirement system for actual service in public schools in this
15-40 state; or

15-41 (2) at least five years of service credit for actual
15-42 service in the public schools in this state and five years of
15-43 out-of-state service credit in the Teacher Retirement System of
15-44 Texas.

15-45 SECTION 38. Subchapter A, Chapter 1575, Insurance Code, is
15-46 amended by adding Section 1575.008 to read as follows:

15-47 Sec. 1575.008. COVERAGE EXEMPT FROM INSURANCE LAW. A
15-48 coverage plan provided under this chapter is exempt from any other
15-49 insurance law, including common law, that does not expressly apply
15-50 to the plan or this chapter.

15-51 SECTION 39. Subsection (b), Section 1575.052, Insurance
15-52 Code, is amended to read as follows:

15-53 (b) The trustee may:

15-54 (1) study the operation of all group coverage provided
15-55 under this chapter; and

15-56 (2) contract for advice and counsel in implementing
15-57 and administering the group program with ~~an~~ independent and
15-58 experienced group insurance consultants and actuaries ~~[consultant~~
15-59 ~~or actuary]~~.

15-60 SECTION 40. Subsection (a), Section 1575.203, Insurance
15-61 Code, is amended to read as follows:

15-62 (a) Each state fiscal year, each active employee shall, as a
15-63 condition of employment, contribute to the fund an amount equal to
15-64 0.65 ~~[0.5]~~ percent of the employee's salary.

15-65 SECTION 41. Section 1575.204, Insurance Code, is amended to
15-66 read as follows:

15-67 Sec. 1575.204. PUBLIC SCHOOL CONTRIBUTION. (a) Each state
15-68 fiscal year, each public school shall contribute to the fund the
15-69 amount prescribed by the General Appropriations Act, which may not

16-1 be less than 0.25 percent or greater than 0.75 percent of the salary
 16-2 of each active employee of the public school. The public school
 16-3 shall make the contributions on a monthly basis and as otherwise
 16-4 prescribed by the trustee.

16-5 (b) Each state fiscal year, each employer who reports to the
 16-6 retirement system under Section 824.6022, Government Code, the
 16-7 employment of a retiree who is enrolled in the group program shall
 16-8 contribute to the fund the difference, if any, between the
 16-9 contribution amount that the reported retiree is required to pay
 16-10 for the retiree and any enrolled dependents to participate in the
 16-11 group program and the full cost of the retiree's and enrolled
 16-12 dependents' participation in the group program, as determined by
 16-13 the trustee. The amounts required to be paid under this subsection
 16-14 are not required to be paid by a reporting employer for a retiree
 16-15 who was reported by that employer under retirement system rules in
 16-16 effect for the report month of January 2005.

16-17 SECTION 42. Section 1575.303, Insurance Code, is amended by
 16-18 adding Subsection (c) to read as follows:

16-19 (c) The fund is held in trust for the benefit of
 16-20 participants of the group program and may not be diverted.

16-21 SECTION 43. Sections 1576.003 and 1576.004, Insurance Code,
 16-22 are amended to read as follows:

16-23 Sec. 1576.003. CONTRACTS TO PROVIDE COVERAGES
 16-24 [ADMINISTERING FIRM]. The trustee may contract with one or more
 16-25 carriers authorized to provide [select an administering firm to
 16-26 administer the group] long-term care insurance to provide that
 16-27 coverage [program under contract with the trustee].

16-28 Sec. 1576.004. PREMIUMS. (a) The trustee shall determine
 16-29 the procedures by which each program participant pays
 16-30 [administering firm shall bill each program participant directly
 16-31 for] premiums and any other program costs. Each participant is
 16-32 responsible for required payments.

16-33 (b) The trustee may authorize any payment method
 16-34 appropriate for the program, including a payment method under
 16-35 which:

16-36 (1) a participating employee is required to pay
 16-37 premiums by payroll deduction remitted by the employee's employer
 16-38 at the times and in the manner determined by the trustee;

16-39 (2) a participating retiree is required to pay
 16-40 premiums by deduction from the retiree's monthly annuity; or

16-41 (3) a carrier with which the trustee has contracted
 16-42 under Section 1576.003 bills a program participant directly.

16-43 SECTION 44. Subsection (a), Section 1576.005, Insurance
 16-44 Code, is amended to read as follows:

16-45 (a) The group long-term care insurance program is not part
 16-46 of the group coverages offered under Chapter 1575 or 1579.

16-47 SECTION 45. Section 1576.006, Insurance Code, is amended to
 16-48 read as follows:

16-49 Sec. 1576.006. RULES. The trustee may adopt rules as
 16-50 necessary to administer [implement] this chapter[, including rules
 16-51 specifying the coverage to be offered under the group long-term
 16-52 care insurance program].

16-53 SECTION 46. Chapter 1576, Insurance Code, is amended by
 16-54 adding Sections 1576.008 through 1576.013 to read as follows:

16-55 Sec. 1576.008. COMPETITIVE BIDDING REQUIREMENTS; RULES.

16-56 (a) A contract to provide benefits under this chapter may be
 16-57 awarded only through competitive bidding under rules adopted by the
 16-58 trustee.

16-59 (b) The rules may provide criteria for determining whether a
 16-60 carrier is qualified.

16-61 Sec. 1576.009. CONTRACT AWARD; CONSIDERATIONS. (a) In
 16-62 awarding a contract under this chapter, the trustee is not required
 16-63 to select the lowest bid and may consider any relevant criteria,
 16-64 including a bidder's:

16-65 (1) ability to service contracts;

16-66 (2) past experience; and

16-67 (3) financial stability.

16-68 (b) If the trustee awards a contract to a bidder whose bid
 16-69 deviates from that advertised, the trustee shall record the

17-1 deviation and fully justify the reason for the deviation in the
 17-2 minutes of the next meeting of the trustee.

17-3 Sec. 1576.010. GROUP LONG-TERM CARE INSURANCE PROGRAM FUND.
 17-4 (a) The group long-term care insurance program fund is a trust
 17-5 fund with the comptroller.

17-6 (b) The trustee shall administer the fund on behalf of the
 17-7 participants in the plan of insurance coverage provided under this
 17-8 chapter.

17-9 (c) The following shall be credited to the fund:
 17-10 (1) money recovered under contracts for providing
 17-11 insurance coverage under this chapter; and
 17-12 (2) investment and depository income.

17-13 Sec. 1576.011. INVESTMENT OF FUND. The trustee may invest
 17-14 the group long-term care insurance program fund in the manner
 17-15 provided by Section 67(a)(3), Article XVI, Texas Constitution.

17-16 Sec. 1576.012. PAYMENTS FROM FUND. Money in the group
 17-17 long-term care insurance program fund may be used only to cover the
 17-18 cost of administering the program and to provide coverage under
 17-19 this chapter.

17-20 Sec. 1576.013. COVERAGE EXEMPT FROM INSURANCE LAW. A
 17-21 coverage plan provided under this chapter is exempt from any other
 17-22 insurance law, including common law, that does not expressly apply
 17-23 to the plan or this chapter.

17-24 SECTION 47. Subchapter A, Chapter 1579, Insurance Code, is
 17-25 amended by adding Sections 1579.005 through 1579.008 to read as
 17-26 follows:

17-27 Sec. 1579.005. CONFIDENTIALITY. (a) Section 825.507,
 17-28 Government Code, applies to records relating to an employee or
 17-29 dependent under the program and in the custody of the Teacher
 17-30 Retirement System of Texas or in the custody of an administrator,
 17-31 carrier, agent, attorney, consultant, or governmental body acting
 17-32 in cooperation with or on behalf of the system.

17-33 (b) The Teacher Retirement System of Texas may disclose to a
 17-34 health care provider, benefit provider, or claims administrator
 17-35 information in the records of an individual that the system
 17-36 determines is necessary to administer the program.

17-37 Sec. 1579.006. EXEMPTION FROM PROCESS. (a) The following
 17-38 are exempt from execution, attachment, garnishment, or any other
 17-39 process:

17-40 (1) benefit payments, including optional benefit
 17-41 payments;

17-42 (2) contributions of active employees, the state, and
 17-43 a participating entity, and any other contributions;

17-44 (3) any rights, benefits, or payments accruing to any
 17-45 person under this chapter; and

17-46 (4) any money in the Texas school employees uniform
 17-47 group coverage trust fund.

17-48 (b) The items listed in Subsection (a) may not be assigned
 17-49 except for direct payment to benefit providers as authorized by the
 17-50 trustee by contract, rule, or otherwise.

17-51 Sec. 1579.007. EXEMPTION FROM STATE TAXES AND FEES. A
 17-52 premium or contribution on a policy, insurance contract, or
 17-53 agreement authorized by this chapter is not subject to any state
 17-54 tax, regulatory fee, or surcharge, including a premium or
 17-55 maintenance tax or fee.

17-56 Sec. 1579.008. COVERAGE EXEMPT FROM INSURANCE LAW. A
 17-57 coverage plan provided under this chapter is exempt from any other
 17-58 insurance law, including common law, that does not expressly apply
 17-59 to the plan or this chapter.

17-60 SECTION 48. Section 1579.052, Insurance Code, is amended by
 17-61 amending Subsection (c) and adding Subsection (e) to read as
 17-62 follows:

17-63 (c) The trustee may contract with ~~an~~ independent and
 17-64 experienced group insurance consultants and actuaries ~~consultant~~
 17-65 ~~or actuary~~ for advice and counsel in implementing and
 17-66 administering the program.

17-67 (e) The trustee shall take the actions it considers
 17-68 necessary to devise, implement, and administer the program.

17-69 SECTION 49. Section 1579.102, Insurance Code, is amended to

18-1 read as follows:

18-2 Sec. 1579.102. CATASTROPHIC CARE COVERAGE PLAN. The
18-3 coverage provided under the catastrophic care coverage plan shall
18-4 be prescribed by the trustee by rule and must provide coverage at
18-5 least as extensive as the coverage provided under the TRS-Care 1 [~~2~~]
18-6 plan operated under Chapter 1575.

18-7 SECTION 50. (a) Section 1579.104, Insurance Code, is
18-8 reenacted and amended to read as follows:

18-9 Sec. 1579.104. OPTIONAL COVERAGES. The trustee may not
18-10 offer optional coverages, other than optional permanent life
18-11 insurance, optional long-term care insurance, and optional
18-12 disability insurance [~~those required by Chapter 1577~~], to employees
18-13 participating in the program. This section does not affect the
18-14 right of a participating entity to offer optional coverages to its
18-15 employees under terms and conditions established by the
18-16 participating entity.

18-17 (b) In accordance with Subsection (c), Section 311.031,
18-18 Government Code, which gives effect to a substantive amendment
18-19 enacted by the same legislature that codifies the amended statute,
18-20 the text of Section 1579.104, Insurance Code, as set out in
18-21 Subsection (a) of this section, gives effect to changes made by
18-22 Section 1, Chapter 354, Acts of the 78th Legislature, Regular
18-23 Session, 2003.

18-24 (c) Section 1, Chapter 354, Acts of the 78th Legislature,
18-25 Regular Session, 2003, is repealed.

18-26 SECTION 51. Subsection (b), Section 1579.253, Insurance
18-27 Code, is amended to read as follows:

18-28 (b) The employee may pay the employee's contribution under
18-29 this subsection from the amount distributed to the employee under
18-30 Subchapter D, Chapter 22, Education Code [~~1580~~].

18-31 SECTION 52. Subchapter F, Chapter 1579, Insurance Code, is
18-32 amended by adding Sections 1579.254 and 1579.255 to read as
18-33 follows:

18-34 Sec. 1579.254. CONTRIBUTIONS HELD IN TRUST FOR FUND. A
18-35 participating entity:

18-36 (1) shall hold contributions required by this
18-37 subchapter in trust for the Texas school employees uniform group
18-38 coverage trust fund and its participants; and

18-39 (2) may not divert the contributions for any other
18-40 purpose.

18-41 Sec. 1579.255. INTEREST ASSESSED ON LATE PAYMENT OF
18-42 CONTRIBUTIONS BY PARTICIPATING ENTITIES. (a) A participating
18-43 entity that does not remit to the trustee all contributions
18-44 required by this subchapter before the seventh day after the last
18-45 day of the month shall pay to the Texas school employees uniform
18-46 group coverage trust fund:

18-47 (1) the contributions; and
18-48 (2) interest on the unpaid amounts at the annual rate
18-49 of six percent compounded monthly.

18-50 (b) On request, the trustee may grant a waiver of the
18-51 deadline imposed by this section based on a participating entity's
18-52 financial or technological resources.

18-53 SECTION 53. Section 1581.702, Insurance Code, is amended to
18-54 read as follows:

18-55 Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide
18-56 additional support for a school district to which this section
18-57 applies in an amount computed by multiplying the total amount of
18-58 supplemental compensation received by district employees under
18-59 Subchapter D, Chapter 22, Education Code, [~~1580~~] by 0.062.

18-60 SECTION 54. (a) The following laws are repealed:

18-61 (1) Subsection (c), Section 824.202, Government Code;
18-62 (2) Subsection (c), Section 1575.211, Insurance Code;
18-63 (3) Chapters 1577 and 1580, Insurance Code;
18-64 (4) Section 57, Chapter 201, Acts of the 78th
18-65 Legislature, Regular Session, 2003;

18-66 (5) Chapter 313, Acts of the 78th Legislature, Regular
18-67 Session, 2003; and

18-68 (6) Section 1.01, Chapter 366, Acts of the 78th
18-69 Legislature, Regular Session, 2003.

19-1 (b) Section 823.405, Government Code, is repealed.

19-2 SECTION 55. The functions and duties of the Teacher
19-3 Retirement System of Texas with respect to the compensation
19-4 supplementation program established under Chapter 1580, Insurance
19-5 Code, and other applicable law, and any appropriation relating to
19-6 that program are transferred to the Texas Education Agency. A
19-7 reference in law to the Teacher Retirement System of Texas with
19-8 respect to the compensation supplementation program means the Texas
19-9 Education Agency.

19-10 SECTION 56. (a) Notwithstanding Subsections (d) and (e),
19-11 Section 823.401, Government Code, as amended by this Act, a member
19-12 of the Teacher Retirement System of Texas may establish
19-13 out-of-state service credit by making the contribution required
19-14 under Section 823.401, Government Code, as it existed before
19-15 amendment by this Act, if the person was a member of the system on
19-16 December 31, 2005, and the out-of-state service was performed
19-17 before January 1, 2006.

19-18 (b) The Teacher Retirement System of Texas shall deposit in
19-19 the state contribution account under Section 825.308, Government
19-20 Code, the portion of a deposit required under Section 823.401,
19-21 Government Code, as it existed before amendment by this Act, to
19-22 establish out-of-state service that represents a fee.

19-23 SECTION 57. (a) The changes in law made by this Act to
19-24 Sections 824.203 and 824.2045, Government Code, and the change in
19-25 law made by the repeal of Subsection (c), Section 824.202,
19-26 Government Code, by this Act, apply only to a person who retires
19-27 under the Teacher Retirement System of Texas on or after September
19-28 1, 2005, unless the person meets one of the requirements of
19-29 Subsection (b) of this section. A person who retires under the
19-30 Teacher Retirement System of Texas before September 1, 2005, is
19-31 governed by the law as it existed immediately before that date, and
19-32 that law is continued in effect for that purpose.

19-33 (b) A person who retires under the Teacher Retirement System
19-34 of Texas on or after September 1, 2005, and who meets one or more of
19-35 the following requirements on or before August 31, 2005, is
19-36 governed by the law as it existed immediately before September 1,
19-37 2005, and that law is continued in effect for that purpose:

19-38 (1) the person has attained age 50;

19-39 (2) the sum of the person's age and amount of service
19-40 credit in the retirement system equals 70 or greater; or

19-41 (3) the person has at least 25 years of service credit
19-42 in the retirement system.

19-43 (c) Only service actually credited in the Teacher
19-44 Retirement System of Texas on or before August 31, 2005, may be used
19-45 to determine eligibility under Subdivisions (2) and (3), Subsection
19-46 (b) of this section. Service credit that will be established only
19-47 after completion of additional payments under an installment
19-48 agreement after August 31, 2005, may not be considered to be
19-49 actually credited for the purpose of Subdivisions (2) and (3),
19-50 Subsection (b) of this section.

19-51 SECTION 58. Section 824.602, Government Code, as amended by
19-52 this Act, applies only to a person who retires from the Teacher
19-53 Retirement System of Texas on or after the effective date of this
19-54 Act. A person who retires from the Teacher Retirement System of
19-55 Texas before the effective date of this Act is governed by the law
19-56 as it existed immediately before the effective date of this Act, and
19-57 that law is continued in effect for that purpose.

19-58 SECTION 59. The changes in law made by this Act by the
19-59 addition of Section 825.4092, Government Code, and the amendment of
19-60 Section 1575.204, Insurance Code, apply to a reporting entity that
19-61 reports a retiree of the Teacher Retirement System of Texas during
19-62 any month after the effective date of this Act.

19-63 SECTION 60. Effective September 1, 2005, any money in the
19-64 school district employees and retirees optional insurance trust
19-65 fund created under Chapter 1577, Insurance Code, as that chapter
19-66 existed before being repealed by this Act, is transferred to the
19-67 group long-term care insurance program fund established under
19-68 Chapter 1576, Insurance Code.

19-69 SECTION 61. Unless the agreement is terminated before all

20-1 payments are made, the change in law made by this Act does not apply
20-2 to an agreement that existed immediately before January 1, 2006,
20-3 between an individual and the Teacher Retirement System of Texas
20-4 for the purchase in installments of service credit under Section
20-5 823.405, Government Code.

20-6 SECTION 62. (a) Except as provided by Subsections (b) and
20-7 (c) of this section, this Act takes effect September 1, 2005.

20-8 (b) The change in law made by this Act to Subsection (a),
20-9 Section 825.307, Government Code, takes effect January 1, 2009.

20-10 (c) Subsection (b), Section 54 of this Act, takes effect
20-11 January 1, 2006.

20-12 * * * * *